

**REMARKS**

Claims 59-70 were pending. Applicants have hereinabove amended without prejudice independent claim 59. No new matter has been added by this Amendment. Support for the amendment to claim 59 may be found throughout the specification including, *inter alia*, paragraphs 11-15 and 27 of the published application. Accordingly, applicants respectfully request that the Examiner enter this Amendment. Upon entry of this Amendment, amended claims 59-70 will be pending.

Applicants acknowledge the Examiner's withdrawal of the obviousness-type double patenting rejections and the withdrawal of the rejections under 35 U.S.C. § 103(a) in the October 2, 2008 Final Office Action. Thus the only remaining basis for rejection is under 35 U.S.C. § 112, first paragraph. Applicants address the Examiner's basis for this rejection immediately below.

**Rejection Under 35 U.S.C. §112, first paragraph**

In the October 2, 2008 Final Office Action the Examiner rejected the pending claims under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner alleged that the specification did not adequately describe the phrase "with the proviso that the tissue is not nail tissue" which appeared in claim 59 prior to the instant Amendment. Applicants traverse the rejection under 35 U.S.C. §112, first paragraph.

Without conceding the appropriateness of the Examiner's rejection and to expedite prosecution of the instant application, applicants have hereinabove amended without prejudice independent claim 59 to delete the proviso language and to insert the term "skin" in place of the term "tissue." Support for this amendment is found throughout the specification including, *inter alia*, paragraphs 11-15 and 27 of the published application. The specification

clearly describes embodiments of the present invention which relate to abrasion of skin surfaces.

The amendment to claim 59 makes clear that applicants are claiming such embodiments.

Accordingly, applicants respectfully request that the Examiner withdraw the rejection of amended claim 59 under 35 U.S.C. §112, first paragraph. For the reasons stated above with respect to amended independent claim 59, applicants also respectfully request that the Examiner withdraw the rejection of the claims dependent thereon, namely claims 60-70.

Conclusion

In view of the foregoing, applicants respectfully request that the Examiner now allow the presently pending claims, namely claims 59-70.

No fee is believed to be necessary in connection with the filing of this Amendment. If any additional fee is deemed to be necessary, applicants hereby authorize such fee to be charged to Deposit Account No. 50-0540.

If a telephone interview would be of assistance in advancing prosecution of this application, applicants' undersigned attorney encourages the Examiner to telephone him at the number provided below.

Respectfully submitted,

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